Code No. 120.03

CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 12, 2013

TO: Ordinance Committee members

FROM: Planning Division, Community Development Department

SUBJECT: Interim Air Quality Design Standards For Development Near Highway 101

RECOMMENDATION: That the Ordinance Committee:

A. Consider a draft ordinance establishing interim air quality design standards for development near Highway 101, to implement Policy ER7 of the 2011 General Plan; and
B. Forward the draft ordinance for Planning Commission review and subsequent City Council adoption.

DISCUSSION:

The proposed ordinance (Attachment 1) would establish interim project review criteria and design standards for applicable new development within 250 feet of Highway 101.

Background

The California Air Resources Board and Santa Barbara County Air Pollution Control District recommend that local agencies limit development of sensitive land uses in close proximity to highways (e.g., residences, schools), in order to reduce potential health hazards associated with vehicle exhaust, including diesel particulates.

The Program Environmental Impact Report (EIR) for the 2011 General Plan update evaluated this issue. The EIR analysis concluded that an interim policy for limiting new development of sensitive land uses within 250 feet of Highway 101 would mitigate the citywide air quality impact of future development to a less than significant level until air pollution and diesel particulate levels were reduced through planned State regulations or other means.

Interim Policy ER7 for limiting new development near Highway 101 was carefully considered by the Planning Commission and City Council with input from agencies, property owners, and the general public, and was adopted as part of the 2011 General Plan Update (Attachment 2). Implementation Measure ER7.1 directs that the City establish project review criteria for new development to implement this policy.

On February 14, 2012, City Council adopted Resolution 12-013 establishing applicable types of new development for implementing Policy ER7 (Attachment 3). Council also directed staff to meet with the Ordinance Committee to consider project review criteria, and return to Council for their adoption.

Summary of Draft Ordinance Components

Purpose and Intent. The intent of temporary design standards limiting development close to Highway 101 is to protect the public health, safety, and welfare. The regulations would limit the number of additional people potentially receiving extensive exposure to air pollution from highway vehicle exhaust, including diesel particulates, and reduce the exposure level from residents and occupants of new development.

Definitions. *Sensitive Individuals* are identified as persons most susceptible to adverse effects from poor air quality, including children, the elderly, and people who are ill or have serious chronic medical conditions. *Extensive Occupancy or Exposure* means daily occupancy or frequent lengthy visits of many hours occurring repeatedly over many years. *Sensitive Land Uses* are land uses that typically involve extensive occupancy or exposure periods by sensitive individuals, including residences, retirement and nursing homes, schools, and large family day care facilities.

Applicability. The interim regulations would apply to new development on properties located (in whole or in part) within 250 feet of Highway 101, as measured from the outer edge of the nearest travel lane (not including highway on- and off-ramps).

New Development includes: (a) The development of two or more residential units on a vacant lot; (b) The addition of one or more new residential unit(s) to a lot with existing development; (c) A substantial addition (greater than 50% of floor area existing as of December 2011); (d) A new building for sensitive land uses (schools, large family day care, community care facilities); (e) Demolition and replacement with structures for residential or other sensitive land uses; (f) A change of use of an existing building is not considered new development, unless the use is changed to a sensitive land use.

Exemptions. Projects exempt from these regulations include: (1) Site locations where Highway 101 has a State highway roadside sound wall between the highway and project; and (2) Project applications submitted or approved prior to December 1, 2011 when Policy ER7 was adopted. Minor additions and remodels, and structures for non-residential land uses are also exempt.

Development Standards.

(A) *Proximity to Highway 101 and Project Design Features:* New development within 250 feet of Highway 101 shall be prohibited unless the City determines that project design features satisfactorily address air quality, with consideration of identified design guidelines. The design guidelines address building distance from the highway, Location of outdoor living space locations, vegetative screening and physical barriers, and air filtration.

(B) *Ventilation:* New development located within 250 feet shall incorporate a central ventilation system rated at Minimum Efficiency Reporting Value of MERV-13 or better, and owner shall provide lessees with filter operations manual.

Ordinance Implementation

Ordinance provisions would be applied by staff and implemented through: the Public Information Counter and City web site; the Pre-Application Review Team (PRT); the Development Application Review Team (DART); preliminary plan checks for Design Review projects; and plan checks for Building Permit projects.

Tracking State Regulations and Air Quality Changes

Policy ER7 is identified as an interim policy until such time as diesel particulate levels and hazards are reduced through further planned California Air Resources Board (CARB) regulations or other means. The policy provides that the City will track CARB regulatory efforts and progress on air quality improvements.

Staff is in communication with Santa Barbara County Air Pollution Control District staff, who are assisting the City in monitoring State activities. The next phase of diesel particulate regulations (heavy truck retrofits), which had been put on hold following the State's economic downturn, is underway. Scientific studies[1] have estimated that diesel particulate levels statewide were substantially reduced in the years 1990-2010 due to in place State regulations.

Updated measurement or modeling of air quality conditions along Highway 101 within the City would be conducted periodically as part of the General Plan Adaptive Management Program, after which the interim ordinance provisions will be reassessed.

[1] UCSD, *Black Carbon and the Regional Climate of California*, April 2013

Review and Adoption Process

Consideration of Air Quality Policy ER7 during the 2011 General Plan update included notification of property owners, Environmental Impact Report, public workshops, and hearings at the Planning Commission, Council Subcommittee, and City Council.

Environmental review of the proposed implementing ordinance under the California Environmental Quality Act (CEQA) is provided by the Program EIR for the 2011 General Plan. Section 15183 of the State CEQA Guidelines mandates that projects that are consistent with General Plan policies for which an EIR was certified shall not require additional environmental review.

Staff recommends that the Ordinance Committee consider the Draft Ordinance for implementing General Plan Air Quality Policy ER7, and forward it for Planning Commission review and subsequent City Council adoption.

ATTACHMENT(S):

1. Draft Ordinance: Interim Design Standards for Development near Highway 101
2. 2011 General Plan Policy ER7.
3. City Council Resolution 12-013 implementing ER7
4. Map of 250-foot Buffer Area and Sound Walls along Highway 101

PREPARED BY: Barbara R. Shelton, Project Planner/ Environmental Analyst

SUBMITTED BY: Paul Casey, Assistant City Administrator

APPROVED BY: City Administrator's Office

ORDINANCE NO. ____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING TITLE 22 OF THE SANTA BARBARA MUNICIPAL CODE BY ADDING CHAPTER 22.65 ESTABLISHING DESIGN STANDARDS FOR NEW DEVELOPMENT NEAR HIGHWAY 101 TO IMPLEMENT POLICY ER7 OF THE 2011 GENERAL PLAN.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION ONE: The City Council adopts the ordinance codified in Chapter 22.65 of the Santa Barbara Municipal Code based on the following findings:

A. The California Air Resources Board and the Santa Barbara County Air Pollution Control District have recommended reducing potential health hazards associated with vehicle exhaust, including diesel particulates, by limiting development of new residences and other sensitive land uses in close proximity to highways.

B. A Program Environmental Impact Report (EIR) certified for the City of Santa Barbara 2011 General Plan update evaluated air quality effects associated with new development in close proximity to Highway 101 during the General Plan time horizon. The EIR identified an interim policy for limiting new development of sensitive land uses within 250 feet of Highway 101. The EIR analysis concluded that the interim policy would mitigate the potential air quality impact associated with future development within the City near Highway 101 to a less than significant level until such time as statewide diesel particulate levels and associated health hazards are reduced by planned State regulations or other means.

C. Interim policy ER7 adopted as part of the City of Santa Barbara 2011 General Plan directs that the development of new sensitive land uses within 250 feet of Highway 101 be limited unless the City determines that diesel emission risks or exposures are satisfactorily addressed. Implementation Measure ER7.1 directs that the City establish development standards for new development to implement the policy, and track State regulations and progress on reducing highway diesel particulates pollution to determine when the interim policy is to be retired.

SECTION TWO: Title 22 of the Santa Barbara Municipal Code is amended by adding Chapter 22.65 titled "Design Standards for Development Near Highway 101" to read as follows:

22.65.010 Purpose and Intent.

It is the purpose of this section to limit and regulate development within close proximity to Highway 101 in a manner that promotes the health, safety, and welfare of the residents of the City of Santa Barbara.

Pursuant to 2011 General Plan Policy ER7, the design standards in this Chapter are intended to limit the number of people, including Sensitive Individuals, who receive Extensive Exposure to potential air pollution hazards from highway vehicle exhaust including diesel particulates, until such time as statewide diesel particulate levels are reduced by planned State regulations or other means.

22.65.020 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the following meanings:

A. Extensive Occupancy or Exposure. Substantial time periods involving daily occupancy or frequent lengthy visits of many hours occurring repeatedly over many years, such as typically experienced with residential land uses and schools.

B. Sensitive Individuals. Segments of the population most susceptible to adverse affects from poor air quality (including from diesel particulates) including children, the elderly, and people who are ill or have serious chronic respiratory, heart, or other medical conditions that are exacerbated by air pollution.

C. Sensitive Land Uses. Land uses that typically involve Extensive Occupancy or Exposure by Sensitive Individuals, including residences; nursing homes, retirement homes, and other community care facilities; schools; and large family day care facilities. Land uses not considered sensitive include retail, commercial services, and offices.

D. State Highway Roadside Sound Wall. A roadside sound wall constructed by the California Department of Transportation.

22.65.030 Applicability and Exemptions.

A. Applicability.

1. **Location.** Any property that is located in whole or part within 250 feet of Highway 101 as measured from the outer edge of the nearest highway travel lane (excluding highway on- and off-ramps) is subject to the requirements of this Chapter, unless identified as exempt in Subsection B of this Section 22.65.030.

2. **Types of Development.** The following types of development are subject to the requirements of this Chapter, unless identified as exempt in Subsection B of this Section 22.65.030:

   a. The development of two or more new residential units on a vacant lot.

   b. The addition of one or more new residential units to a lot on which development existed as of December 1, 2011.

   c. An addition to an existing residential unit that increases the net floor area of the residential unit by more than 50% of the net floor area that existed within the residential unit as of December 1, 2011. If multiple additions are made to a residential unit during the time this Chapter is in effect, the amount of the additional floor area shall be measured in the aggregate.

   d. The development of a new building for the following Sensitive Land Uses: schools; large family day care facilities; and nursing homes, retirement homes, and other community care facilities.

   e. The demolition of an existing building and its replacement with a building for intended for residential use or other Sensitive Land Uses.

f. A change of use of an existing building from a use not defined as a Sensitive Land Use to a Sensitive Land Use.

B. Exemptions. The following projects are exempt from this Chapter:

1. Projects on sites where a State Highway Roadside Sound Wall is located between the highway and project site.

2. Projects with applications submitted to the City before December 1, 2011 for development permits including a Master Application, building permit plan check, or for other development approval, where the application has not expired.

3. Projects that received a final approval from the City prior to December 1, 2011 where the approval remains valid.

4. Projects where the developer can demonstrate to the satisfaction of the Community Development Director or the Director's designee that site-specific climatic or topographic conditions avoid or address the air quality risks from Highway 101 on the site.

Nothing in this Subsection B prevents an applicant from incorporating the design standards specified in Section 22.65.040 to exempt projects on a voluntary basis.

22.65.040 Design Standards for Air Quality.

The following design standards apply to development to which this Chapter applies:

A. Proximity to Highway 101 and Project Design Features. New development for Sensitive Land Uses shall be prohibited from locating within 250 feet of Highway 101 unless the City Community Development Director or designee determines that project design features satisfactorily address air quality risks. The Director's determination shall take into consideration the following guidelines that identify methods of reducing exposure to diesel particulates and other air pollutants:

1. **Distance from Highway 101.** Structures and outdoor living areas for Sensitive Land Uses should be located as far from Highway 101 as feasible. For mixed-use projects, buildings and areas expected to have Extensive Occupancy or Exposure by Sensitive Individuals should be located furthest from the highway, while facilities for non-sensitive populations and/or involving short-term use (such as parking facilities) should be placed closer to the highway.

2. **Building Orientation and Outdoor Living Areas.** Buildings involving Sensitive Land Uses should be oriented with doors and outdoor living areas on the side of the building away from the highway in order to provide physical screening by the building.

3. **Vegetative Screening and Physical Barriers.** Development involving Sensitive Land Uses should incorporate dense, tiered vegetative plantings between the highway and the project, which helps to remove air pollutants and reduce diesel particulate concentrations. Vegetation should largely entail trees with complex foliage (leafy vegetation or with needles) that allow substantial in-canopy airflow; preferably in multiple rows, using tree plantings of tall and uniform height that retain foliage year-round and have a long life span. Inclusion of physical barriers such as walls and fences between the highway and the project also help to reduce air pollutant exposure levels.

4. **Air Infiltration.** In addition to a filtration system as required in Section 22.65.040 B, projects should locate air intake vents on the side of building away from the highway and use double-paned windows throughout.

5. **Other Measures.** The developer of a Sensitive Land Use that will be located within 250 feet of Highway 101 may propose other measures that have a demonstrated ability to reduce highway air pollution exposure.

B. Interior Air Filtration System. New development located within 250 feet of Highway 101which is not exempt pursuant to Section 22.65.030.B shall incorporate a central ventilation system with air filtration rated at Minimum Efficiency Reporting Value of "MERV13" or better for enhanced particulate removal efficiency. The owner of any development subject to this requirement shall attach a copy of the operator's manual for the central ventilation and filtration system as an exhibit to every lease of the building or any portion of the building.

22.65.050 Maintenance of Design Features.

Design features incorporated into an approved project design pursuant to Section 22.65.040 shall be maintained as long as this Chapter remains in effect.

SECTION THREE. This Ordinance shall be repealed when the City Council determines that the health risk posed from toxic air contaminants due to Extensive Occupancy in proximity to Highway 101 falls below a cancer health risk of 10 cases per one million persons.

City of Santa Barbara 2011 General Plan, Environmental Resources Element
AIR QUALITY POLICY ER 7

ER 7 Highway 101 Set Back

New development of residential or other sensitive receptors (excluding minor additions or remodels of existing homes or one unit on vacant property) on lots of record within 250 feet of U.S. Hwy 101 will be prohibited in the interim period until California Air Resources Board (CARB) phased diesel emissions regulations are implemented and/or until the City determines that diesel emission risks can be satisfactorily reduced or that a project's particulate exposure level is sufficiently reduced. The City will monitor the progress of CARB efforts and progress on other potential efforts or measures to address diesel emissions risks.

Possible Implementation Actions to be Considered

ER 7.1 Review Criteria. Prepare project review criteria for the set-back area.

ER 7.2 Barriers and Sound Walls. Pursue funding and installation of sound walls, trees and shrubs along unprotected areas of U.S. Hwy 101 to create a barrier to reduce particulate transmissions. Barriers and sound walls to be consistent with the Highway Santa Barbara Coastal Parkway Design Guidelines.

RESOLUTION NO. 12-013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN INTERIM POLICY REGARDING AIR QUALITY ISSUES

WHEREAS, the City undertook an update of the General Plan in a process known as *Plan Santa Barbara (PlanSB);*

WHEREAS, an Environmental Impact Report was prepared, considered, and certified, and which informed the decision-making process in *PlanSB;*

WHEREAS, potential effects associated with air pollution including diesel particulates is a concern such that both the California Air Resources Board and the Santa Barbara County Air Pollution Control District recommended guidelines for reducing health hazards by limiting development of new residences and other sensitive receptor uses involving extensive exposure periods in close proximity to the highway;

WHEREAS, during the public process for *PlanSB,* the Planning Commission and City Council carefully considered the input from other agencies, property owners, and the general public;

WHEREAS, the air quality policy under consideration is intended to reduce exposure of more people to potential hazards by limiting new development of sensitive receptors close to Highway 101 for an interim period of time while the regulations requiring cleaner burning fuels and engines are being adopted and implemented to reduce the hazard;

WHEREAS, on December 1, 2011, the Council adopted the General Plan with a new Environmental Resources Element Policy Air Quality 7, along with implementation actions including direction to establish interim criteria for review of development, and to monitor associated regulations and levels of diesel particulate pollution to determine when the interim policy should be retired; and

WHEREAS, it is customarily the policy of the Council to consider applying new policies and standards to new development applications while exempting pending projects that began the City review process before the new policy was adopted.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. The following projects are exempt from the application of Policy ER7:

a. Projects submitted to the City before December 1, 2011 for development permits including submittal of a Master Application, submittal for building permit plan check, or submittal of an application for other development approval.
b. Projects that received an approval from the City prior to December 1, 2011 where the approval is still valid.

SECTION 2. For purposes of implementing Policy ER7, the term "New development" includes the following:

a. The addition of two or more new residential units to a vacant lot.
b. The addition of one or more new residential units to a lot with existing development.
c. The development of a new building on any lot that will include a use that involves numerous visits, or extended periods of occupancy, by persons who are considered sensitive receptors. A change of use of an existing building is not considered new development.

SECTION 3. For purposes of implementing Policy ER7, the term "Minor Addition" is defined as follows: An addition of floor area to an existing residential unit that does not exceed 50% of the floor area that existed as of December 1, 2011. The amount of the additional floor area shall be measured in the aggregate during the time when the policy is in effect.

RESOLUTION NO. 12-013

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing resolution was adopted by the Council of the City of Santa Barbara at a meeting held on February 14, 2012, by the following roll call vote:

AYES: Councilmembers Dale Francisco, Frank Hotchkiss, Grant House, Cathy Murillo, Randy Rowse, Bendy White; Mayor Helene Schneider

NOES: None

ABSENT: None

ABSTENTIONS: None

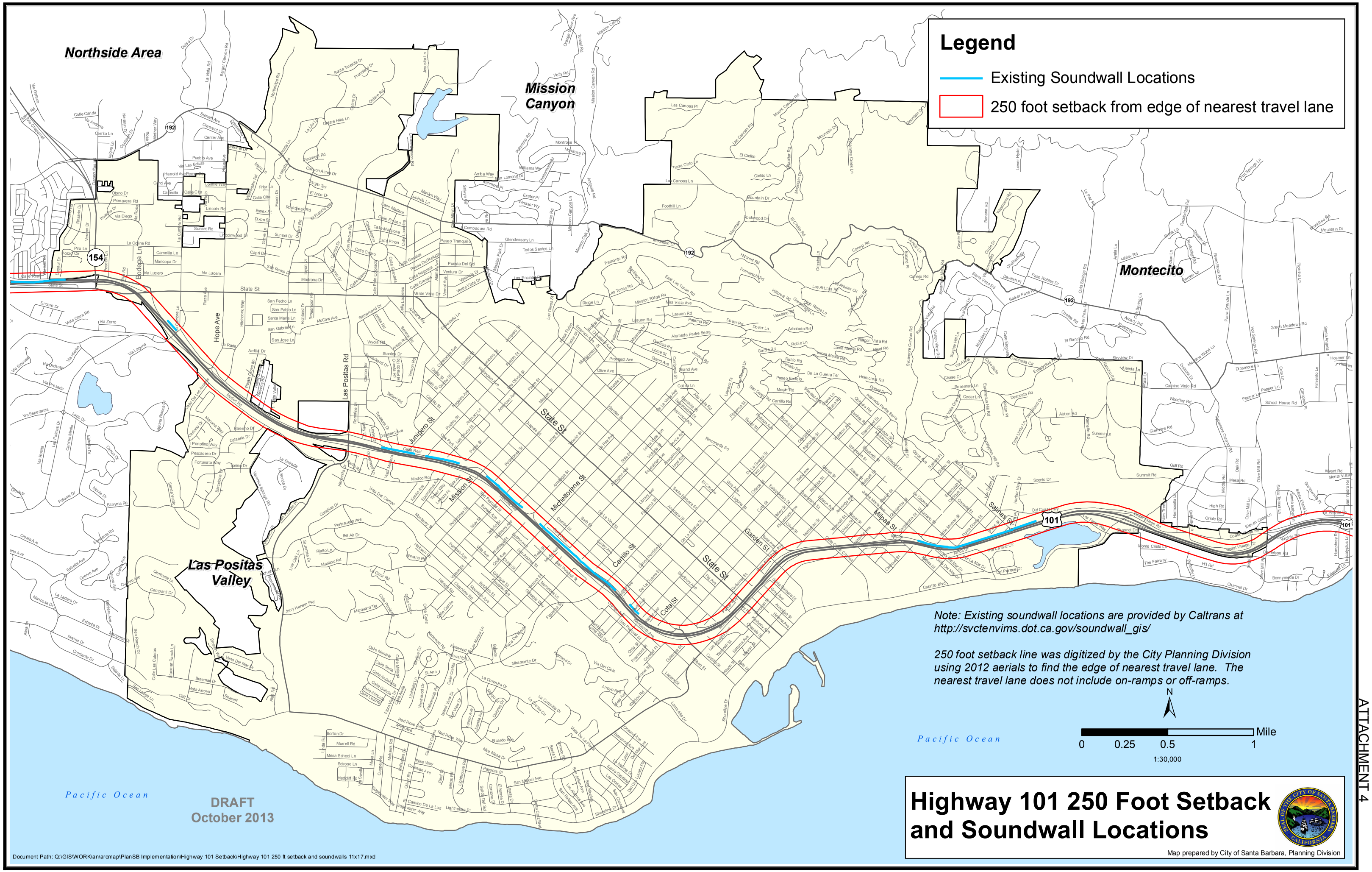
IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on February 15, 2012.

Cynthia M. Rodriguez, CMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing resolution on February 15, 2012.

Helene Schneider
Mayor

ATTACHMENT 3



ATTACHMENT 4

Draft Ordinance
Air Quality Design Standards for Development near Highway 101

City Council Ordinance Committee

November 12, 2013

Staff Recommendations

That Ordinance Committee:

A. Consider the draft ordinance establishing air quality design standards for development near Highway 101, to implement General Plan Policy ER7

B. Forward the draft ordinance for Planning Commission review and City Council adoption

Background

- California Air Resources Board & SBCAPCD:
  - Recommend limiting sensitive uses near highways to reduce health risk from vehicle exhaust
- City Program EIR for 2011 General Plan
  - Study of health risks along Highway 101 in Santa Barbara
  - Policy mitigation identified to limit residential & other sensitive land uses within 250 feet of Highway 101 until air pollution levels are reduced

General Plan Policy ER7

- 2011 General Plan Policy ER7 adopted

  ER 7 Highway 101 Set Back: New development of residential or other sensitive receptors (*excluding minor additions or remodels of existing homes or one unit on vacant property*) on lots of record within 250 feet of U.S. Hwy 101 will be prohibited in the interim period until California Air Resources Board (CARB) phased diesel emissions regulations are implemented and/or until the City determines that diesel emission risks can be satisfactorily reduced or that a project's particulate exposure level is sufficiently reduced. The City will monitor the progress of CARB efforts and progress on other potential efforts or measures to address diesel emissions risks.

  Possible Implementation Actions to be Considered ER 7.1:
  Review Criteria. Prepare project review criteria for the set-back area

- 2012 Council implementing resolution adopted

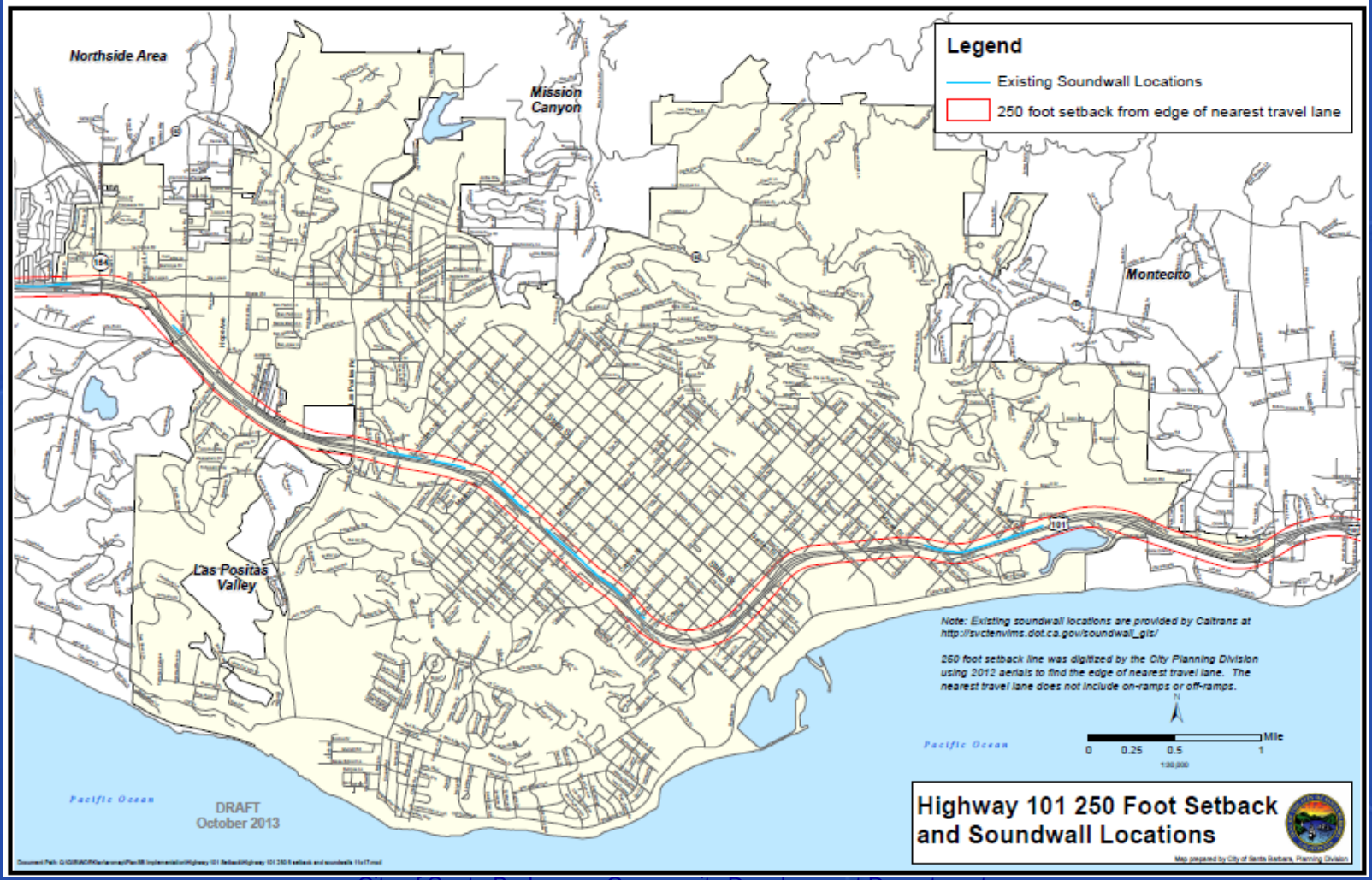
Summary of Ordinance Provisions

- Purpose & Intent
  - Protect public health, safety & welfare
  - Limit number of additional people receiving extensive exposure to highway exhaust, incl. diesel particulates
- Definitions
  - Sensitive Individuals – children, elderly, ill
  - Extensive Exposure – daily occupancy or frequent lengthy visits over many years
  - Sensitive Land Uses – residences, retirement/ nursing homes, schools, large family day care

Where would the ordinance apply?

- Location
  - New development for sensitive land uses on properties within 250 feet of Highway 101
- Exemption
  - Locations with Caltrans highway sound walls

250 Foot Highway 101 Setback Area



When would the Ordinance Apply?(cont.)

- Types of New Development
  - 2 or more new residential units on a vacant lot
  - 1 or more new units on a lot with existing development
  - Substantial addition to existing unit (> 50% floor area)
  - New building for sensitive land uses
  - Demolition/ replacement structure for sensitive land uses
- Exemptions
  - Project applications submitted/approved prior to Dec 2011
  - Minor additions and remodels
  - Structures for non-residential land uses

Air Quality Design Standards

- Proximity to Highway 101

  Development of new sensitive land uses is prohibited within 250 feet of Highway 101 unless the City determines that project design features satisfactorily address air quality.

- Project Design Guidelines for Air Quality
  - Maximize distance from Highway for buildings and outdoor living areas
  - Provide vegetative screening and/or barriers
  - Double-paned windows and ventilation design
  - Required interior central ventilation and air filtration

Ordinance Implementation

- Ordinance provisions to be applied by Planning staff
  - Application reviews and plan checks
- Tracking State regulations and air quality changes
  - Interim policy until diesel particulate levels reduced through planned State regulations or other means.
  - Studies indicate substantial reduction in diesel particulates over past decade.
  - Updated assessment of air quality conditions along Highway 101 in Santa Barbara to be conducted as part of General Plan adaptive management program.

Ordinance Adoption Process

- Prior General Plan policy ER7 process included:
  - Property owner notices
  - Environmental Impact Report
  - Public workshops
  - Public hearings (Planning Commission, Council Subcommittee, City Council)
- Implementing Ordinance adoption process
  - Ordinance Committee
  - Planning Commission hearing – review & recommend
  - City Council hearing – Ordinance adoption

Staff Recommendations

That Ordinance Committee:

A. Consider the draft ordinance establishing air quality design standards for development near Highway 101, to implement General Plan Policy ER 7

B. Forward the draft ordinance for Planning Commission review and City Council adoption